IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

RIVER OAKS HOMES ASSOCIATION,

Respondent,

v.

ZERIA LOUNCE, Individually and as Trustee of the ZERIA LOUNCE REVOCABLE TRUST, Appellants.

DOCKET NUMBER WD73608

MISSOURI COURT OF APPEALS WESTERN DISTRICT

DATE: January 17, 2012

APPEAL FROM

The Circuit Court of Jackson County, Missouri The Honorable Twila K. Rigby, Judge

JUDGES

Division Three: Mitchell, P.J., and Smart and Witt, JJ.

CONCURRING.

ATTORNEYS

Patrick B. Starke Blue Springs, MO

Attorney for Respondent,

James B. Jackson Independence, MO

Attorney for Appellants.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

RIVER OAKS HOMES ASSOCIATION,)
Respondent,)
v.) OPINION FILED:
ZERIA LOUNCE, Individually and as) January 17, 2012
Trustee of the ZERIA LOUNCE)
REVOCABLE TRUST,)
)
Appellants.)

WD73608 Jackson County

Before Division Three Judges: Karen King Mitchell, Presiding Judge, and James M. Smart, Jr., and Gary D. Witt, Judges

Zeria Lounce and the Zeria Lounce Trust appeal the judgment of the Circuit Court of Jackson County, Missouri ("trial court"), granting the River Oaks Homes Association ("the Association") assessments owed pursuant to the applicable covenants in the amount of \$17,397.62. On appeal, Appellants argue that the trial court erred: (1) in finding Lounce individually liable for the unpaid assessments on the River Oaks property since she no longer owned the property when the assessments were set; (2) in finding the trust liable because there were no assessments billed in the name of the trust; and (3) in finding the assessments proper in the first instance, in that the Association did not follow the mandatory procedures for setting assessments.

This court affirms the judgment of the trial court as to the trust's liability for the assessments, but reverses the judgment against Lounce individually.

AFFIRMED IN PART; REVERSED IN PART.

Division Three holds:

Because Lounce had deeded her property over to her trust and recorded the deed before she stopped paying the assessments on the property, Lounce individually was not the owner of record when the assessments at issue were made. As such, Lounce individually is not liable for the unpaid assessments.

The Appellants' remaining objections to the assessments are waived because they are affirmative defenses and were not included with Appellants' other affirmative defenses in their answer or raised in any manner until the day of trial.

Opinion by: Karen King Mitchell, Presiding Judge

January 17, 2012

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.